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DECISION



13741 R. Barger  
Proct II

THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE: B-198618

DATE: May 15, 1980

MATTER OF: Honey Sage Enterprises, Inc.

DIGEST:

[Protest concerning award of concession contract] is dismissed since it involves Post Restaurant Fund, a nonappropriated fund activity, over which GAO has no authority to render bid protest decision.

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Honey Sage Enterprises, Inc. (Honey Sage) protests the requirement in solicitation No. DABT-15-80-B-0024, issued by the U. S. Army, Fort Benjamin Harrison, Indiana, that the awardee provide a \$10,000 security deposit for food services required by the Post Restaurant Fund.

The solicitation is to lead to the award of a concession contract for the operation of a post restaurant. The deposit, as well as a commission on sale revenue, is to be paid to the Post Restaurant Fund.

We are advised that this Fund is a nonappropriated fund. This Office, however, has no authority to render a decision involving a nonappropriated fund activity. Ms. Geneva Osborne, B-188004, January 7, 1977, 77-1 CPD 15; Gene's Mobile T.V., B-189089, May 25, 1977, 77-1 CPD 368.

We also point out that it appears the protest is untimely and therefore not for consideration in any event. Our Bid Protest Procedures require protests of alleged solicitation deficiencies to be filed prior to bid opening. 4 C.F.R. 20.2(b)(1) (1980). Bid opening occurred on April 21, while the protest was not received here until after that date.

The protest is dismissed.

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for Harry R. Dan Cleave  
Milton J. Socolar  
General Counsel

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